

AN ACT

ENTITLED, An Act to authorize certain interstate shipments of wine, to establish certain penalties, and to collect sales tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. Notwithstanding any other provision of law, any person who is at least twenty-one years of age may purchase and receive wine from another state as provided in this section if the wine is not in distribution in this state and the wine comes from a winery that is located in a state that affords South Dakota wineries an equal reciprocal shipping privilege, or a winery located in South Dakota. The person shall place an order with a licensee as defined in subdivision 35-4-2(3) or (5). The licensee shall order the wine through a wholesaler licensed pursuant to subdivision 35-4-2(2) and the wholesaler shall arrange the purchase of wine. The licensee shall inform the purchaser of the cost of the wine, the amount of any tax that would apply to the purchase pursuant to § 35-5-3, the amount of sales tax that would apply, and the amount of charges for freight and handling. The licensee shall collect the total amount due from the customer before ordering the wine through the wholesaler. After receiving the order for the wine from the licensed retailer the wholesaler shall arrange for the wine to be shipped directly to the licensee who placed the order for the purchaser. Wine purchased pursuant to this Act may only be delivered and received by the purchaser from a licensee as defined in subdivision 35-4-2(3) or (5).

Section 2. If the wholesaler orders twelve or less cases of a particular brand of wine for an individual purchaser in one calendar year pursuant to this section, no registration fee pursuant to chapter 39-13 may be imposed.

Section 3. No person may receive more than twelve cases of wine, containing no more than nine liters per case, in any calendar year for personal use from another state under this Act. No person who receives wine under this Act may resell any of the wine. However, if the delivery of the wine does not

result in a completed sale to the person who placed the original order, the licensee may sell the wine in the ordinary course of business. It is a Class 2 misdemeanor for any person to receive more than twelve cases of wine during a calendar year in violation of this Act. It is a Class 2 misdemeanor for any person to resell or attempt to resell any wine obtained pursuant to this Act. The Department of Revenue shall promulgate rules pursuant to chapter 1-26 to provide for the reporting and tracking of information related to the sale of wine under this Act and to prescribe forms for the implementation of this Act.

Section 4. Any licensee who holds a farm winery license pursuant to § 35-12-2 may ship no more than twelve cases of wine per person per calendar year. A case may contain no more than nine liters per case in any one shipment. Any wine sold may only be for personal use and not for resale. The wine may only be sold directly to a resident of another state if the state to which the wine is sent allows residents of the state to receive wine sent from outside that state.

Section 5. No person in the business of selling alcoholic beverages may ship or cause to be shipped any alcoholic beverage to any South Dakota resident who does not hold a license issued pursuant to chapter 35-4. The department shall, for the first offense, send a certified letter to any person who violates this section and order such person to cease and desist any shipments of alcoholic beverages to South Dakota residents. Any subsequent violation of this section is a Class 1 misdemeanor.

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I certify that the attached Act
originated in the

SENATE as Bill No. 154

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 154
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State